

HOUSE FINANCE COMMITTEE
March 11, 2021
1:32 p.m.

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CALL TO ORDER

Co-Chair Merrick called the House Finance Committee meeting to order at 1:32 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Kelly Merrick, Co-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Bryce Edgmon
Representative DeLena Johnson
Representative Andy Josephson
Representative Bart LeBon
Representative Sara Rasmussen
Representative Steve Thompson
Representative Adam Wool

MEMBERS ABSENT

None

ALSO PRESENT

Neil Steininger, Director, Office of Management and Budget, Office of the Governor; Representative Tiffany Zulkosky, Co-Chair, House Health and Social Services Committee; Representative Liz Snyder Co-Chair, House Health and Social Services Committee.

PRESENT VIA TELECONFERENCE

Heidi Hedberg, Director, Division of Public Health, Department of Health and Social Services; Susan Pollard, Assistant Attorney General, Department of Law.

SUMMARY

HB 68 APPROP: SUPPLEMENTAL; AMENDING

HB 68 was HEARD and HELD in committee for further consideration.

HB 76 EXTENDING COVID 19 DISASTER EMERGENCY

HB 76 was HEARD and HELD in committee for further consideration.

HB 84 APPROP: SUPP; REAPPROP; AMENDING; CBR

HB 84 was HEARD and HELD in committee for further consideration.

OVERVIEW: SUPPLEMENTAL BILLS BY OFFICE OF MANAGEMENT AND BUDGET

Co-Chair Foster reviewed the meeting agenda.

#hb68

#hb84

HOUSE BILL NO. 68

"An Act making supplemental appropriations; amending appropriations; and providing for an effective date."

HOUSE BILL NO. 84

"An Act making supplemental appropriations, reappropriations, and other appropriations; amending appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

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^OVERVIEW: SUPPLEMENTAL BILLS BY OFFICE OF MANAGEMENT AND BUDGET

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Co-Chair Merrick provided information about the meeting documents.

NEIL STEININGER, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, introduced a PowerPoint

presentation titled "State of Alaska Office of Management and Budget: FY2021 House Finance Supplemental Budget Overview," dated March 11, 2021 (copy on file). He shared that supplemental items were funding requests for the current fiscal year and generally included items where an unanticipated need arose after the legislature finalized the appropriation process in the prior year. He began on slide 2 and spoke to elements of supplemental bills. The fast track supplemental bill addressed high priority projects and completion of the FY 21 capital budget. He explained that when the legislature had adjourned early the past year, it had passed an operating budget that did not include all of the capital projects. Some capital projects were accommodated through the RPL [revised program legislative] process, but some of the items were ineligible for that process. The fast track bill also included other items with urgent supplemental needs or needs the administration had prioritized in December.

Mr. Steininger continued to review the elements of the supplemental bills on slide 2. He relayed that HB 69 and HB 70 included technical supplemental items, which primarily related to FY 22, but for technical reasons the appropriations were effective in FY 21. He relayed that HB 84 was the normal supplemental bill, which included requests the administration had not been aware of in December or were slightly less urgent than items introduced in December.

Mr. Steininger addressed slide 3 showing a table titled "FY2021 Supplemental Summary." The first section of the table reflected the fast track supplemental. He detailed that the lion's share of the funding request fell under the statewide category for the completion of the FY 21 Permanent Fund Dividend (PFD) payment of \$1.2 billion. Additionally, \$53.4 million went to the completion of the capital budget. The fast track also included a handful of agency operating items.

Mr. Steininger continued to address the supplemental summary table on slide 3. He relayed that most of the items in HB 69 and HB 70 were more technical in nature. He referenced a couple of negative funding numbers within the section. He explained that the negative numbers reflected a situation where a capital project had come in under budget; therefore, the funding was repealed and reappropriated for another use. He pointed to a -\$12.8 million in the capital

line and \$12.8 million in the statewide line. The action removed the amount from a capital project that no longer needed funding and deposited it into a fund.

Representative Josephson asked which fund Mr. Steininger was referencing.

Mr. Steininger answered the administration had primarily recommended a deposit into the Alaska Capital Income Fund. Additionally, there were capital requests in the 2022 capital budget spending out of the Capital Income Fund on deferred maintenance.

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Mr. Steininger referenced a spreadsheet titled "FY2021 Supplemental Bill Summary," dated February 2, 2021 (copy on file).

Co-Chair Merrick noted the document was located under the summary tab in members' black binders.

Mr. Steininger stated the document looked similar to slide 3 in the presentation and was eight pages in length. He began on line 3 and highlighted a supplemental request to address a school finance and facilities shortfall. He explained that when the School Bond Debt Reimbursement program was vetoed, funding for school finance activities was inadvertently eliminated. The issue had been addressed in the governor's FY 22 budget. The item on line 3 backfilled the funding for FY 21.

Co-Chair Merrick directed members to the spreadsheet tab in their binders.

Mr. Steininger moved to line 4 showing a reduction to the amount available in the Alaska Technical and Vocational Education Program (TVEP) funding. He elaborated that the TVEP funding had been reduced due to a lack of collections in the fund. He noted there would be negative supplemental items to reflect the reduction in collections to avoid inadvertently overbudgeting from the fund in FY 21.

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Vice-Chair Ortiz looked at line 3 associated with funds the legislature had appropriated for school bond debt

reimbursement. He understood the funds represented a restoration of funds the governor had vetoed. He asked if the original appropriation would have come from general funds, but the supplemental appropriation would come out of the school fund.

Mr. Steininger explained that the facilities section within the Department of Education and Early Development (DEED) had been funded through a transfer from the school bond debt program in the past. He detailed that the school bond debt program was paid for with a combination of the school fund and unrestricted general funds (UGF). The proposal shown on the spreadsheet used the school fund to cover the facilities payments. He referenced the historical funding method for facilities activities and noted that the activities were not all associated with the school bond debt program. The activities were associated with maintaining major maintenance lists and school facilities conditions and working with districts on facilities needs. He explained that budgeting the item within school bond debt was not putting the cost in the program it was serving. Therefore, the administration had transferred the funding out of the school bond debt reimbursement program in the FY 22 budget and directly budgeted for the expense in school finance and facilities to ensure the connection to school bond debt did not create any problems in future years.

Vice-Chair Ortiz asked about the net impact of the specific transfer. He asked if any municipalities had benefitted from the process that took place after the veto occurred. Alternatively, he wondered if only the state had benefitted.

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Mr. Steininger replied that the staff supported by the \$928,000 performed work that benefitted districts. The staff reviewed applications for school major maintenance funding, reviewed backlog lists of maintenance needs at school districts, and other work assisting districts and Regional Educational Attendance Areas (REAA) with facility-related activity.

Vice-Chair Ortiz clarified that the idea behind school bond debt reimbursement was to help municipalities with their bond indebtedness. He asked for verification that none of

the municipalities actually received any help with their bond indebtedness related to the specific item [on line 3 of the spreadsheet].

Mr. Steininger answered in the affirmative. He stated that the school bond debt program had been vetoed. The activities performed by the individuals funded through school bond debt in prior years was not necessarily associated with the school bond debt program.

Mr. Steininger moved to line 5 showing a \$13.5 million appropriation for the PFD hold harmless program. He elaborated that the funding would ensure the hold harmless program was sufficiently funded to complete the fiscal year 2021 dividend payment. He relayed lines 6 and 7 were related to the TVEP program shortfall addressed earlier. He moved to an increment on line 8 for operational support at Alaska Vocational Technical Center (AVTEC). He elaborated that AVTEC had seen substantial revenue shortfalls due to COVID; however, COVID relief from the federal government had not been sufficient to offset the shortfalls.

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Representative Josephson looked at the PFD hold harmless program on line 5. He asked if line 5 would be moot if the legislature did not appropriate the \$1.2 billion to complete the statutory dividend.

Mr. Steininger replied affirmatively.

Mr. Steininger briefly noted that item 9 related to the TVEP distribution. He moved to items in the capital numbers section of the fast track supplemental bill. He began with a replacement system for the Division of Retirement and benefits on line 13. He detailed the division was currently replacing two of its system servers that were close to end of support. The increment was \$230,000 in retirement system funds. Line 14 included \$7.7 million in federal receipts related to the Pacific Salmon Treaty Chinook Fishery Mitigation. He elaborated that the item was related to an RPL that placed money in FY 21 for one fiscal year. The increment would allow the money to move into the capital budget for use across several years (the full time period of the federal grant). Line 15 included a \$500,000 appropriation for the Department of Fish and Game (DFG) from the Capital Income Fund for vessel, facilities, and

aircraft maintenance. Line 16 included an increment for DFG for the Sportfish Recreational Boating and Angler Access Program. He expounded that the program used a significant amount of federal receipts with matching funds coming from the Fish and Game Fund. He noted the Fish and Game Fund was not eligible for the RPL process, which is the reason the funding was not done over the summer.

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Mr. Steininger moved to line 17 on page 2 related to the Wildlife Management Research and Hunting Access program within DFG. The increment was federal funding matched by the Fish and Game Fund and Statutory designated program receipts (third-party contributions to the projects). Line 18 included a capital project to access money in the Election Fund that was provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. He explained that because expenditures from the Election Fund were not eligible for the RPL process, the funds had been deposited but had been inaccessible. He elaborated that during the intervening time period the Division of Elections utilized its existing operating appropriation to achieve the goals of election security the funds were intended for. The supplemental request was needed in order to transfer the expenditures to a capital project and maintain operations through the remainder of the fiscal year.

Representative Josephson recalled during the RPL period in the summer of 2020 there were COVID relief funds available for state elections that the state had waived at the time. He recalled discussing the issue with colleagues. He asked if it was the same money that the state was receiving belatedly.

Mr. Steininger confirmed that the monies were the same. He detailed that the CARES Act had included funding for making the election safe for COVID. The federal guidelines required the money to be deposited into the Election Fund in each state. He explained that the election fund could not be spent through the RPL process. The money had been deposited, but the state had been unable to spend it. The Division of Elections had used funds from its general operating appropriations for elections safety. He elaborated that the supplemental increment would let the division transfer the expenditures into the capital project

for COVID security of elections and use the money to continue operations.

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Mr. Steininger moved to line 19 showing a statewide deferred maintenance increment funded with the Capital Income Fund. He noted that the \$5.9 million listed was significantly less than the FY 21 capital budget request. He explained there was not enough time left in the year to obligate the entirety of the funding. The increment reflected the available funding in 2021 and if the fast track supplemental bill was appropriated quickly, some projects could be obligated going into the summer season.

Mr. Steininger reviewed a \$4 million increment for prosecutor recruitment and housing to address sexual assault and sexual abuse of a minor case backlogs on line 20. He noted there was also \$3 million in the Department of Law (DOL) base budget for prosecutor salaries.

Representative Rasmussen asked if item 20 pertained to prosecutors hired in FY 21 or for new positions that had not yet been filled.

Mr. Steininger replied that DOL was looking to create a surge of hiring of new prosecutors to address the backlog and the specific type of cases. He elaborated that the capital project would give the initial money in FY 21 once appropriated. The budget requests for FY 22 going forward paid for ongoing salary costs. The increment [on line 20] helped with the initial hiring influx.

Representative Rasmussen asked about the number of positions the department was looking to add.

Mr. Steininger believed it was 34 positions with support staff. He would follow up with the precise number.

Representative Josephson expressed support for the increment, but not the funding source. He asked how he would explain to education advocates that \$4 million [in higher education funding] should be used for a different purpose.

Mr. Steininger replied that the budgets, particularly the supplemental, had been built with the understanding there

was constraint on the balance of the Constitutional Budget Reserve (CBR). He explained that the prior appropriation bill did not include available UGF CBR headroom to make supplemental appropriations; therefore, the administration had used less traditional fund sources. He stated that while the proposal was not a designated use of the Higher Education Fund, it was still subject to appropriation controlled by the legislature. He stated the importance of addressing the backlog and explained that the administration had utilized available fund sources to meet supplemental needs. He remarked that some of the fund sources may not match up perfectly.

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Representative Rasmussen considered that while paying the increment [on line 20] from the Higher Education Fund may not align perfectly, she thought it could be appropriate because it addressed the abuse of minors. She had been told by advocate groups that some of cases involving kids were delayed up to five or more years, which was lengthy and traumatic for children. She stated that the trauma could have long lasting impacts on children. She saw the increment as a possibility to eliminate some of the long-term effects due to delayed cases. She reasoned it would contribute to their higher education at some point.

Representative LeBon asked if it impacted the university scholarship program, Alaska performance scholarships, or Washington, Wyoming, Alaska, Montana, and Idaho (WWAMI) programs.

Mr. Steininger answered there was no plan to reduce funding for the scholarship programs, but it did utilize the fund source that paid for the programs.

Representative LeBon thought it was hard to reconcile that the use of funds would not have a long-term impact on the programs in some way.

Mr. Steininger explained that for several years the Higher Education Fund had been on a trajectory of appropriating slightly more than its earnings. The balance was declining over a long period of time. He stated that the proposed use [on line 20] did not undermine the programs. He noted it was not a principal and income type of fund.

Representative LeBon suspected the administration took the position that the scenario should be a one-time only event.

Mr. Steininger answered the increment was a one-time implementation cost.

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Representative Wool asked if there were other places where the proposed budget utilized funds for something outside their original intent. He referenced past testimony from the Alaska Mental Health Trust Authority (AMHTA) about the use of its funds. He characterized the use of funds for something other than their intended purpose as breaking the rules.

Mr. Steininger would note the fund sources throughout the presentation. He pointed to an increment on page 1, line 8 for the Alaska Vocational Technical Center (AVTEC) backfill and noted the funding source was Alaska Housing Capital Corporation (AHCC) receipts. He explained the AHCC was effectively a savings account with no designation of its purpose. He stated that the administration utilized some of the fund sources in the supplemental to avoid the CBR headroom issue.

Representative Wool recalled seeing the previous day that the Power Cost Equalization (PCE) Fund had been used for something outside its intended purpose. He observed that the issue appeared to be happening in multiple places.

Representative Josephson thought he heard Mr. Steininger state that the Higher Education Fund was suffering anyway, therefore using a little more from the fund would not matter. He did not believe that was how Mr. Steininger meant it, but it was the way he had heard it.

Mr. Steininger replied that it was not how he had meant the statement. He clarified that sometimes designated funds used for a specific purpose made it appear that the program was not a General Fund cost. In the case of the Higher Education Fund because the real value of the fund was declining over time, those uses needed to be considered as priorities against other General Fund spending. The scholarship programs mentioned by Representative LeBon were priorities that had been fully funded in the budget regardless of the declining real value of the fund. In the

case of the Higher Education Fund, the question of the priority was whether the scholarship program was a greater priority than the health of the fund. He believed the scholarships were the priority and the fund was a mechanism that showed the expenditure as a designated general fund (DGF) cost rather than a General Fund cost.

Co-Chair Merrick asked members to hold questions until the end.

Vice-Chair Ortiz asked if the bar on eligibility had been raised for the scholarships or if there had been a decline in the number of awarded scholarships due to the decline in the balance of the Higher Education Fund.

Mr. Steininger would follow up on the question.

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Mr. Steininger moved to an appropriation on line 21 for the Department of Military and Veterans Affairs (DMVA) for security upgrades at the Vessel Readiness Center. Line 22 included an appropriation to the Vessel Readiness Center for water systems sustainment upgrades. Line 23 contained an increment for the Kotzebue Readiness Center HVAC system. Line 24 included an appropriation for roof, envelope, and fall protection for DMVA facilities statewide. Line 25 included an appropriation to the Department of Natural Resources for the Parks Land and Water Conservation Fund federal grant program. He noted the program had been included in the FY 21 capital budget, but it had not been appropriated. The item leveraged substantial federal funds but required state match. Line 26 was an appropriation for the Geological Materials Center multispectral scanning equipment. He remarked that the increment had been proposed in FY 21, but not appropriated.

Mr. Steininger advanced to line 27 on slide 3. The appropriation for the Department of Transportation and Public Facilities was for the decommissioning and remediation of Class V injection wells. The increment was \$1.7 million funded with Alaska Housing Finance Corporation (AHFC) dividends. Line 28 was public building fund deferred maintenance renovation and repair. The increment was annual deferred maintenance costs of just under \$6 million for public buildings that was not appropriated in the capital budget the previous year. Line 29 included an appropriation

for court security improvements throughout the state to be paid with AHFC dividends. Line 30 included an appropriation to address deferred maintenance improvements for court facilities throughout the state to be paid from the Alaska Capital Income Fund (the fund source traditionally used for deferred maintenance).

Mr. Steininger moved to an increment for the operations of the Alaska Psychiatric Institute (API) on line 34. The governor's budget recommended paying the \$6 million increment with Alaska Mental Health Trust Authority (AMHTA) reserves. Line 38 was a capital project for the Department of Revenue utilizing \$10 million in program receipts collected by the Child Support Services Division and \$15.5 million in federal receipts to replace the division's aging case management system. He noted the operating budget included some reductions the division would be able to take by moving off of the mainframe system. He remarked that there was a significant cost to the initial upgrade; however, there were ongoing operating savings and the system needed to be replaced.

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Mr. Steininger began addressing items in the regular supplemental bill. He described the items as less urgent, or the administration had not been aware of them in December. Line 42 was related to the transition to biweekly payroll. He explained the transition had increased the cost of state employees' salaries by less than half a percent. In order to accommodate some of the increases in agency budgets, the administration was reducing the rate charged by the Division of Personnel and Labor Relations that applied across all payroll throughout the state. He elaborated that the transition to biweekly generated efficiencies and savings within payroll processing and human relations (HR) work. The HR work would be centralized in the Division of Personnel and all of the savings that offset the salary cost for agencies would be borne within the division. He relayed that the savings would take time to implement; therefore, in order to make certain the immediate cost impact did not come at a cost to programmatic delivery, the rate was reduced immediately. He noted it required some backfill of General Fund cost within the division to ensure its mission was completed. The change would reduce agencies' rates by \$2 million, but the savings could not be implemented immediately. As a result,

the budget included \$1.65 million in General Fund costs within the division. The change ensured agencies were not harmed by the policy decision to move to biweekly payroll.

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Mr. Steininger moved to a \$411,700 UGF to offset revenue deficits in professional licensing programs on line 43. He expounded that during COVID, fee increases to professional licensing were suspended, which had caused some of the licensing boards to go into a deficit in license collections. The increment aimed to offset impacts to the licensing boards.

Representative Josephson asked why the item would not be payable with federal sources.

Mr. Steininger answered that the CARES Act COVID Relief Funds (CRF) could not be used for revenue replacement. The new federal stimulus package included a stipulation specifying the funding could not be used for an intentional decrease in a tax or fee or to avoid a tax increase. He explained that the increment pertained to a policy decision not to increase or change fees for professional licensing; therefore, the federal funds could not be used to cover the expense.

Mr. Steininger moved to line 44. He explained that the Department of Environmental Conservation (DEC) had implemented some energy savings efficiency projects. He elaborated there was a state program allowing the borrowing of funds for energy efficiency upgrades on state facilities if the cost of debt was entirely covered by the energy cost savings. The department had taken advantage of the program; however, there had been delays in implementing the retrofits primarily due to COVID. Therefore, the department was unable to fully pay down the debt in the first year; there was a \$70,000 difference between the energy savings and the cost of the debt.

Mr. Steininger addressed appropriations for DEC on lines 45 and 46 pertaining to environmental health and water quality. He detailed there were unanticipated legal expenditures as a result of enforcement cases the department was required to pay to the Department of Law (DOL). He explained that the cost was for services for DEC; therefore, the supplemental increment was in the DEC budget

and not the DOL budget. Line 47 included a \$590,000 appropriation to the Office of the Governor for the Division of Elections reflecting the match portion of the COVID relief funding from the CARES Act to the Election Fund. Line 48 included an appropriation just under \$3 million for subsidized adoptions and guardianships. He detailed the funding had a \$275,000 General Fund match. The item reflected an increase in the number of children being adopted or in permanent guardianships.

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Mr. Steininger advanced to a \$1.2 million increment on line 49 for the Adult Public Assistance program to adjust for a calculation for the maintenance of effort to support the Medicaid program. The increment was required in order for the state to continue collecting federal funding for the Medicaid program. Line 50 included \$1.2 million in federal receipts for increased federal participation in some of the maintenance costs at Army Guard facilities. Line 51 was \$130,000 for risk management of physical and digital risks within the Department of Revenue. Line 52 reflected an adjustment to the estimate for investment management fees at the Alaska Permanent Fund Corporation (APFC) under DOR. He detailed that \$50 million was necessary due to higher returns than anticipated when the corporation had budgeted for its management fees.

Mr. Steininger moved to capital items within the regular supplemental bill beginning on line 56. Line 56 included an appropriation of \$200,000 for the Alaska Energy Authority (AEA) Electrical Emergencies Program. Line 57 included a \$330,000 appropriation for the Mount Edgecumbe high school master plan update from the school fund. He detailed that the school fund was a dedicated fund that could only be used for school facility related purposes. Line 58 included an increment for the Department of Education and Early Development to create a new database to track school facility conditions. Lines 59 and 60 within DEC were both related to increases in the match required for increased awards through the Village Safe Water Programs (for expansions and upgrades and first time service projects). The increments only included the General Fund portion because the department had existing authority to collect the increased awards.

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Mr. Steininger moved to an appropriation on line 61 to enhance capacity at the Geological Material Center paid for by a third party that would utilize the capacity to store its own samples. Line 62 included \$49,000 for Exxon Valdez Oil Spill Outreach through the Exxon Valdez Oil Spill Trustee Council. Line 63 was \$750,000 for new subdivision development to bolster land sales by the Department of Natural Resources.

Mr. Steininger moved to the operating language section in the fast track supplemental bill beginning on line 69. The increment on line 69 included \$4 million related to outside counsel and other activities necessary to support statehood defense related to Alaska's statehood rights for natural resources.

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Representative Josephson observed the document contained AHFC as a fund source for numerous items. He asked how AHFC may feel about the proposed use of funds. He remarked he was seeing many unusual fund sources listed in the document.

Mr. Steininger answered that the fund source was the AHFC dividend paid annually to the state. He explained that typically the AHFC dividend was appropriated for capital projects. He detailed that by appropriating the dividend for capital projects, AHFC was able to hold onto the cash for continued investment and to distribute the funding when projects needed the funding. He relayed that AHFC strongly preferred for the funds to be used for capital spending. He explained that the previous year when only part of the capital budget was funded, AHFC dividends had not been fully expended. He reported that dividends that were not fully expended on capital projects were deposited into the General Fund per the appropriation language. He noted when the funds were deposited into the General Fund, they generally were swept into the CBR. He reiterated that AHFC preferred the dividends to be used for capital projects, which enabled the corporation to continue to manage the funds and theoretically should increase dividends in future years.

Representative Josephson asked for verification there was nothing about the fund sources that were akin to the

discussion of the AMHTA or AIDEA fund sources. He asked if the proposed use of the AHFC dividends was customary.

Mr. Steininger answered in the affirmative. He stated it was customary to utilize the corporation's dividend, not other funds held by the corporation.

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Mr. Steininger informed committee members that the increment on line 69 also used the existing balance of the Investment Loss Trust Fund. He remarked that the account collected money over time and had a small balance.

Mr. Steininger moved to a \$1.2 billion increment on line 70 to complete the FY 21 statutory PFD paid in July 2020. Line 74 included \$2,300 for a grant to the Blood Bank of Alaska. Line 75 was a reappropriation of a prior capital project to be used for tax expertise and economic impact analysis by the Department of Revenue. He explained that as tax proposals were made, the department needed to bring in expertise to analyze the proposals within Alaska's fiscal picture. Line 79 was a technical item related to the Division of Risk Management and the Catastrophic Reserve Account [lapse balance appropriation]. He explained that the specific budget method had been used in the past [Note: see description on page 6 of the spreadsheet for more detail] and it appeared to be an omission from the operating budgets. He elaborated that as the administration was looking at Catastrophe Reserve Fund bill currently before the legislature, it realized the appropriation was necessary to affect the current statute.

Mr. Steininger moved to an appropriation for the smoothing of chargeback rates on line 80. He noted the rates had been discussed by the Office of Management and Budget in a recent House Finance Committee meeting. The increment would stabilize the rate charges year over year. Line 81 was language for the Department of Health and Social Services Medicaid Services to allow money saved in the Medicaid program to roll into FY 22. The increment would allow the program additional time to negotiate with stakeholders on the Medicaid budget. The item used funds offset by the increase in federal participation in the Medicaid program to carry into the following fiscal year. He noted that since the item had been proposed, the increased federal participation had been extended through the end of the

current calendar year and savings would continue into the next year. Line 82 reflected an amendment to the Commercial Vessel Passenger Tax appropriation. He explained the appropriation was responsible for sending head tax dollars out to the first ports of call where cruise ships docked. He expounded that when reviewing the budget from the previous year, the administration had found a typo in the year referenced, which would have double spent collections from two years back. The item corrected the error and adjusted the estimate from ~\$21.3 million to zero to reflect the amount collected in the past year.

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Mr. Steininger highlighted that line 83 was an estimated deposit into the Disaster Relief Fund. He detailed there were appropriations for COVID disaster relief to the Department of Health and Social Services totaling \$90 million between two appropriations. The administration did not believe the entire amount was needed for COVID relief and was proposing to deposit \$30 million of the total into the Disaster Relief Fund. The funds would accommodate known costs related to prior disasters in recent years, not necessarily related to COVID. The action would bring the fund back to a healthy balance.

Mr. Steininger moved to a fund transfer of \$12.75 million in prior capital projects that had been completed under budget. The remaining funds would be deposited into the Capital Income Fund. The money would be redeployed for deferred maintenance in the capital budget. Line 88 included a small reappropriation of unexpended balances on capital projects from cruise ship head tax. The money would go back into the [Commercial Passenger Vessel Tax] account. Line 89 included repeals of other Department of Transportation and Public Facilities capital projects associated with the deposit into the Capital Income Fund, in addition to some repeals of existing projects that were appropriated from the Capital Income Fund. He noted the money would lapse back into the fund.

Mr. Steininger reviewed an item related to a settlement against the state from a Disability Law Center judgement on line 93. The increment was \$7.35 million in general funds and \$4.5 million in federal matching funds to programs created for FY 21 under the settlement.

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Mr. Steininger highlighted five other judgements, settlements, or claims totaling \$366,000 UGF on line 94. Line 98 reflected an amendment to the Natural Petroleum Reserve-Alaska (NPRA) Impact Grant Program. The increment of \$17.9 million would be adjusted to the amount actually received for the program by the Department of Commerce, Community and Economic Development. Line 99 was a technical item to reassign old appropriations initially for the Department of Administration to the Department of Military and Veterans Affairs as a result of the transfer of the Alaska Land Mobile Radio System (ALMR) program. Page 8 of the spreadsheet showed a summary line with the cost of total supplemental items.

Vice-Chair Ortiz looked at lines 82 and 88 related to the Commercial Passenger Vessel Tax. He asked for verification the increments would reinstate funds to the Commercial Passenger Vessel Fund.

Mr. Steininger answered that the smaller increment of \$8,600 would lapse back into the Commercial Passenger Vessel Fund. The \$21.3 million was to adjust the projected expenditures from the previous year's budget to the actual distribution. He noted there had been a very minimal amount collected the previous year.

Vice-Chair Ortiz looked at line 82 and asked if expenditures from the fund had been projected at \$21.2 million, but the expenditures had not actually occurred.

Mr. Steininger agreed. He explained that the state had been projected to receive enough head tax revenue to pay out the distribution and the number had not been adjusted at the end of session the previous year.

Representative Johnson asked a question about lines 80 and 81 on page 7.

Mr. Steininger answered there were not amounts associated with items on lines 80 and 81 because they were estimated amounts and not additive spending. He elaborated that line 81 related to existing appropriations for general funds to Medicaid Services. The administration was looking to use the existing \$35 million appropriation and extend the lapse date. Line 80 allowed existing unexpended appropriations in

FY 21 to lapse into an appropriation for rate smoothing. He clarified that numbers were not included for lines 80 and 81 to avoid duplicate counting.

Representative Johnson looked at lines 45 and 46. She asked if legal expenditures related to a municipal government or private individual.

Mr. Steininger deferred to the Department of Law or the Department of Environmental Conservation for details on the case.

Representative Johnson wanted to ensure the state was spending funds on legal efforts in the right place.

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Co-Chair Merrick asked Mr. Steininger to review governor amendments.

Mr. Steininger referenced a one-page document titled "FY2021 Supplemental Governor Amended," dated February 16, 2021 (copy on file). Lines 1, 3, 4, and 5 were all related to the Technical Vocational Education Program (TVEP) distribution. He noted the previous spreadsheet discussed showed reductions to the TVEP distribution. Subsequent to the release, the department had looked at revenues coming in for the program. He explained that incoming revenues had been fairly volatile given COVID and the employment situation in the state. He explained that revenues had been adjusted up, but there was still a net reduction in collections to the fund.

Co-Chair Merrick directed members to the appropriate location in their budget binders.

Mr. Steininger highlighted a fund source change on line 2 in the Department of Environmental Conservation. He explained that shellfish testing had been funded using cruise ship head tax dollars; however, the Department of Law (DOL) believed the fund use may conflict with the commerce clause in the U.S. Constitution. As a result, the administration was replacing the funds with UGF. There was a similar budget item in the DEC FY 22 operating budget.

Vice-Chair Ortiz asked how long cruise ship passenger vessel taxes had been used to fund the shellfish testing

program. He wondered why the concern had only recently been raised by DOL if the fund use had been occurring for a number of years.

Mr. Steininger answered that it had been used for several years and he knew it had been a concern; therefore, the administration was proposing to fix the issue. He did not know why the adjustment had not been made in prior years.

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Mr. Steininger noted that lines 3 through 5 were related to the TVEP distribution. Line 6 was a technical adjustment. He elaborated that prior OMB reports reflected some UGF costs associated with one of the General Fund appropriations to the Department of Health and Social Services for COVID relief. Subsequent to the reports, the administration realized the costs should be applied to federal funds through the CARES Act. Lines 7 and 8 were repeals of capital projects completed under budget. He explained that line 7 reappropriated the funds back to the General Fund. He noted that the amounts could be deposited into another fund like the Capital Income Fund. Line 8 reappropriated funds back into the Capital Income Fund. He noted the funding came from a prior project from the fund; therefore, the reappropriated funding could be used for deferred maintenance needs in the future.

Representative Wool asked about the TVEP funding change. He asked if it was because the Unemployment Insurance Fund contained less funding than anticipated due to COVID and unemployment claims.

Mr. Steininger answered that the TVEP Fund was funded through payroll taxes. He explained that due to the pandemic's impact on the employment situation over the past year, the tax had varied significantly from initial estimates. He detailed that the administration had put together the negative adjustments in December. Subsequently, the department had observed revenues were increasing more than projected, which resulted in the adjustments reflected in the spreadsheet.

Representative Josephson returned to the spreadsheet related to the supplemental bills. He referenced page 7, line 94 related to judgements, settlements, and claims. He pointed to an increment of \$197,000 on the Recall Dunleavy.

He asked if the expense was borne by the Division of Elections. He asked for detail.

Mr. Steininger answered that cost would be a General Fund appropriation to the Department of Law to pay the settlement. He noted the item did not run through the Division of Elections.

Representative Josephson asked why the increment description included "DOE."

Mr. Steininger answered that the information provided in the description reflected parties included in the case name.

Representative Josephson asked if the money was designed to make DOL whole for defending the Recall Dunleavy lawsuit.

Mr. Steininger clarified that the increment would pay the prevailing party from the settlement or judgement.

[2:35:44 PM](#)

Representative Josephson thought the decision was a policy call. He asked for verification that the cost could have been paid by fundraising or the state.

Mr. Steininger answered that the item was a judgement or settlement against the state and the amount was an obligation owed by the state.

Representative Edgmon asked about page 7, line 83 [related to the Disaster Relief Fund]. He asked if the item was a lookback in FY 21. He referenced Senate Bill 241 and the Disaster Declaration Fund where the legislature had authorized a \$10 million limit. He referenced SB 56 and HB 76 that included \$10 million to extend the disaster declaration and would be before the committee for consideration soon. He asked how the \$30 million on line 83 interplayed with the other aforementioned items.

Mr. Steininger thought it may help to provide a bit more about the Disaster Relief Fund. He clarified that the \$30 million [on line 83] would not be utilized for COVID related disaster spending. The purpose of the increment was to return the fund balance to a sufficient level in order to respond to other disasters occurring in the intervening

time period. He reported there were still costs associated with the Anchorage earthquake from several years back. Additionally, there were costs associated with more recent earthquakes, fires, and a variety of other small disasters. He relayed that as of a couple of weeks earlier the balance of the fund was ~\$2.7 million, which was not considered to be a comfortable balance. The \$30 million would ensure needs were met for existing disaster spending through the following fiscal year. He noted that the \$5 million deposit made the previous year associated with the pandemic and the \$10 million cap set under SB 241 would not be impacted by the deposit.

Representative Edgmon asked for verification that the spending of the \$30 million would be governed by disaster declarations issued by the administration.

Mr. Steininger replied in the affirmative.

Co-Chair Merrick thanked Mr. Steininger for his presentation.

HB 68 was HEARD and HELD in committee for further consideration.

HB 84 was HEARD and HELD in committee for further consideration.

[2:39:41 PM](#)

AT EASE

[2:44:47 PM](#)

RECONVENED

#hb76

HOUSE BILL NO. 76

"An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket sales; access to federal stabilization funds; wills;

unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date."

2:44:59 PM

Co-Chair Merrick remarked that the legislature and the public had talked extensively about the topic during the current legislative session. She asked committee members to recognize that each committee focused on different aspects of legislation throughout the process. She recognized that the bill would have significant impacts for the health and safety of Alaskans. She reported that the House Finance Committee's primary focus would be on the bill's fiscal impact to the state and its residents. She relayed that the House Health and Social Services Committee had heard the bill several times over the past few weeks and the committee's co-chairs would present the committee substitute (CS). She asked members to hold questions until the end of each segment.

REPRESENTATIVE TIFFANY ZULKOSKY, CO-CHAIR, HOUSE HEALTH and SOCIAL SERVICES COMMITTEE, introduced the CS with a prepared statement:

Thank you for the opportunity to present Committee Substitute for House Bill 76, extending the COVID-19 disaster declaration.

Throughout the last year, Alaskans and our global neighbors have faced significant health and economic impacts as a result of the COVID-19 pandemic. And while the virus has proved unpredictable – with some infections resulting in no or mild symptoms, other infections developed severe illness or led to untimely death – what is constant about COVID-19 is that it is highly contagious, grows exponentially, and new variants pose continued public health risk to Alaskans.

Recognizing this threat to the health and lives of Alaskans, on March 11, 2020, the Governor issued a declaration of a public health disaster emergency in anticipation of the spread of COVID-19 to communities across Alaska and issued a number of new disaster declarations for the on-going pandemic.

We have come a long way in this last year. The global medical community has improved clinical resources to help those with severe infections, our society has adapted to how we live in ways that prevent transmission, and the record-breaking development and deployment of vaccines offers us hope on the horizon. But we have heard decisively from Alaska's healthcare and community leaders that we are not out of the woods just yet and without an ongoing disaster declaration, this prolonged area of limbo is hamstringing response, which continues regardless of ideology in this building about the severity of the pandemic.

The Health and Social Services Committee heard from a wide range of stakeholders from across Alaska, from businesses and local government to epidemiologists and non-profit service organizations. Testimony was clear and consistent, Alaska still needs the tools to fight this pandemic, keep Alaska's businesses afloat, and help families get back on their feet. We believe this narrow and prescriptive disaster declaration offers that necessary set of tools.

This declaration ensures local response in vulnerable communities with limited healthcare resources can continue, enables Alaska to continue surveillance testing at airports to identify cases before widespread outbreaks occur, offers certainty and flexibilities for frontline health providers who remain on the pandemic's frontlines, and ensures Alaska remains nimble in its ability to respond.

Further, the declaration provides legal flexibilities and meets the minimum criteria by the federal government for Alaska to receive its share of federal funding for a number of on-going relief and recovery efforts, including vaccine deployment, expanded allowances for telehealth, and alternate care sites for testing, vaccination, and treatment.

Delaying or failing to renew the declaration to best position Alaska to fight this pandemic and keep families safe is like taking down an umbrella in the middle of a rainstorm because you aren't getting wet.

[2:49:37 PM](#)

REPRESENTATIVE LIZ SNYDER, CO-CHAIR, HOUSE HEALTH and SOCIAL SERVICES COMMITTEE thanked the committee for the opportunity to present the CS. She provided prepared remarks:

I'd like to make it clear that CSHB 76 does not extend the disaster, it extends the declaration so that we can definitively end the disaster. Further, the bill should look very familiar. In an effort to build broad support for the declaration and move expeditiously to meet the needs of Alaskans, CSHB 76 is modeled after the most current version of SB 56, bringing alignment to the Senate companion that has been considered in both the Senate Health and Social Services and Labor and Commerce Committees. The primary difference is reverting to the original sunset date of September 30, 2021, which this bill allows the administration to evaluate as needed. CSHB 76 is very pared down compared to HB 241, which as you recall was passed in 2020. Where HB 241 was a large workshop of a wide variety of tools, CSHB 76 is a small efficient toolbox of essentials to finish the job. We do appreciate that there are alternative ideas and plans to CSHB 76, so in my sectional analysis here, I'll highlight what is unique and why it is important.

First, this bill contains important language in that it declares a "public health disaster emergency." If we were to move forward without disaster language we are willingly operating in a gray zone of uncertainty. We would be asking healthcare providers and organizations to run alternate care sites for vaccinations; testing, including at airports; and treatment without the protections a declaration affords. Verne Berner, Alaska Native Health Board, on March 4, in the House Health and Social Services hearing testified to this fact. There are already healthcare organizations encountering more red tape and bureaucratic hurdles to set up alternate care sites without a declaration. We heard about this from Jared Kosin from ASHNHA also on March 4. Alaska is risking eligibility for extended federal SNAP benefits without this language and these extended benefits provide \$8 million per month to Alaskan families. The Families First Coronavirus Response Act, the federal legislation which allows for the extended SNAP benefits states "in the event of public health

emergency declaration by the Secretary of Health and Human Services under Section 319 of the Public Health Service Act, based on an outbreak of Coronavirus disease and the issuance of an emergency or disaster declaration by a state based on an outbreak of COVID-19, the Secretary of Agriculture..." and it goes on to explain the expanded SNAP benefits.

Without a declaration, our eligibility will expire on April 1, we may find ourselves in a position of forfeiting \$8 million of support in April, another \$8 million in May, and yet another \$8 million in June for a total of \$24 million less in our economy and support for Alaskan families. A disaster declaration gives us the nimbleness to respond quickly if things change. We have seen how quickly the trajectory of case rates can increase as we also heard from Dr. Tom Hennessy on March 4. Today, with 226 resident cases, plus an additional 12 nonresident cases, this is our highest count since the third week of January. Yesterday was 150 and the day before was 91.

2:53:40 PM

Representative Snyder continued to read from a prepared statement:

The next four sections of CSHB 76 were also addressed separately in individual Senate bills, SB 86, SB 77, SB 78, and SB 24, with a focus on permanency in those Senate bills. This may indeed be a good move for Alaska, but this approach of separately legislating key components of COVID-19 response is not efficient and further delays response resources needed now.

Representative Snyder provided information on the four aforementioned sections:

One, provisions for reasonable flexibility and professional occupational licensing. Making licensure quicker until the declaration expires, preventing the raising of fees and waiving continuing ed requirements. I'd like to note that SB 86, its effective date is not until January 2022. Another section continues expanded flexibility for telehealth services in Alaska. Another section allows shareholder and nonprofit meetings to be held electronically.

That's also reflected in SB 24, the previous SB 78. Lastly, allowing certain online charitable gaming activities, which we also see addressed in SB 77. The remaining sections of 76 included provisions for requiring informed consent for vaccinations as amended in Senate Health and Social Services; civil liability protections for individuals; a financing plan as amended in Senate Labor and Commerce, extending what was issued by the governor on January 15, 2021; and reporting requirements for OMB, these are reduced as compared to HB 241.

In conclusion, Alaska has done a great job in responding to the pandemic. We lead the nation in vaccination rates and are the first state to open up vaccine eligibility to anyone 16 and older. Case rates have plateaued. These are cause for celebration but not complacency. Individual and incomplete piecemeal approaches with delayed start dates paled with workaround approaches do not provide the certainty and efficiency we need amidst an ongoing global pandemic. I appreciate we are all emotionally fatigued by COVID-19, but to be clear, Alaska has not been in lockdown in months and when we had a declaration in place, businesses were open, and people have been free to go where they liked. Schools have opened. CSHB 76 won't change this, instead it is a way that Alaska can continue testing and vaccinating with efficiency and certainty so that we can finally end the pandemic. It is a way for healthcare providers to continue providing needed services without unnecessary risk or prohibitive costs and for them to adapt quickly as the situation changes. It ensures Alaskans have access to food and it ensures we can safely promote that Alaska is open for business and welcome tourists who want to help us jumpstart the economy this summer.

[2:56:31 PM](#)

Representative Zulkosky provided concluding remarks a prepared statement:

We believe that Alaska has done an incredible job and it is because of the hard work of many Alaskans, especially by those in DHSS, Public Health, in Tribal Health. What's important to us and this state is that we have a way to continue this great work and stay on

the right path. We believe the committee substitute for HB 76 is currently the fastest and surest way to do this. Things are looking great, and we want to keep it that way.

When the Legislature approved the state's first disaster declaration in 2020, it was said that if we look back and it feels like we did too much, the safety precautions and interventions to protect Alaskans from COVID-19 worked. As Foraker Group's President Laurie Wolf eloquently said before the Health & Social Services Committee, ending the declaration now is akin to stopping a 7-day penicillin prescription after three days because we're beginning to feel better. Now is not the time to dismantle resources that have helped to save lives, protect businesses, and care for Alaskans over the last year.

CSHB 76 provides Alaska with the tools and resources that our municipalities, health systems, and businesses need to get Alaska from where we are today, to where we need to go – where Alaskans can frequent local businesses without fear of getting sick, where families and friends can gather in-person for life's precious moments, and children can safely continue in-person learning.

As anxious as we all are to return to a new normal, inaction on this issue is consequential. Alaska has been more successful in combating COVID-19 in part because we have been proactive, decisive, and responsive, and our communities, public health professionals, and businesses have had the tools to adapt to the world that we find ourselves in.

[2:58:34 PM](#)

Representative Rasmussen referenced an addition in Section 13 of the CS related to the personal objections to the administration of COVID-19 vaccines. She asked whether Legislative Legal Services had found no constitutional or federal issues pertaining to the section. She asked if the language applied only to state employees or to any employees.

Representative Zulkosky believed the language had been offered as an amendment in the Senate Health and Social

Services Committee. The intent was to provide statutory protection for Alaskans who opt not to receive the vaccine.

Representative Rasmussen asked what type of protection the provision provided.

Representative Zulkosky replied that the intention was to ensure there were statutory protections that did not force any Alaskan to receive the vaccination. She stated her understanding that the language was not necessarily required - there was nothing in statute requiring anyone to receive any sort of vaccines. She reiterated that the language had been offered on the Senate side with the intention of making sure it was the case with the COVID-19 vaccine. She explained that the CS brought alignment between the existing House bill with the changes that had already been made on the Senate side.

Representative Rasmussen appreciated the language. She had been hearing about cases where private employers in Alaska were requiring employees to vaccinate and to show proof of the vaccination. She thought it was a HIPAA violation. She had been told that some businesses were requiring employees to take personal leave or resign if they chose not to get the vaccine by August. She had heard concerns about airlines requiring vaccinations for people to fly. She wanted to ensure Alaskans maintained the option to vaccinate or not vaccinate.

[3:01:35 PM](#)

Representative LeBon referenced a provision related to civil liability on page 10 of the legislation. He highlighted that the language stated that "A person may not be held liable for an action taken..." He provided a scenario where an employee of a private sector business got the virus. He asked if there was a liability protection for the business. He pointed out that where the employee had contracted the virus was not known and it could have been somewhere outside of work or brought in by a customer or client. He asked if there was an element of protection for the small businesses in the bill.

Representative Zulkosky referred to the summary of changes on the original Senate bill, where the section referenced by Representative LeBon had been added. She communicated her understanding that under the language a person may not

be held liable for an action that does or does not comply with an order, proclamation, or declaration adopted by the governor. She stated it was their understanding that the language was a broad waiver of the liability. She remarked that she was not an attorney and would run the question by Legislative Legal Services for verification.

Representative Edgmon remarked that the bill was a governor's bill. He stated that during his time on the committee he had seen committee chairs from other committees present personal legislation. He asked why there was not a representative from the governor's office presenting a governor's bill.

Representative Zulkosky deferred the question to the administration.

Co-Chair Merrick relayed that the committee would hear from the administration after the current presenters.

Representative Edgmon asked if the two representatives were presenting the bill because it had most recently been in their committee. He thought it was out of the convention of presenting a bill. He wondered if it was an indication the administration did not support the bill.

Co-Chair Merrick replied that the [House Health and Social Services Committee] co-chairs had asked to present the CS. The administration would address the bill after the co-chairs had finished.

Representative Zulkosky replied that the assessment was accurate. From her perspective as a co-chair of the House Health and Social Services Committee - the topic was of significant interest and concern to stakeholders that routinely came before the committee - there had been a very fast evolution of position on the issue by the administration. She elaborated that the administration had initially believed the legislature needed to extend the disaster declaration and had introduced HB 76. Subsequently, the administration had decided not to extend the disaster declaration. The administration had then opted to pursue a number of pieces of permanent legislation that stood separate from a disaster declaration. She believed the situation contributed to the awkwardness of the [House Health and Social Services Committee] co-chairs' willingness to present the bill. She believed it was an

indication the administration had wanted to distance itself from the declaration. She did not want to put words in the mouth of the administration. She communicated it had been made clear by staff in Senator Lisa Murkowski's office that standalone legislation that was not a disaster declaration was not sufficient for leveraging the incoming federal resources for COVID relief. She stated that because there was not a statutory opportunity for a public health emergency through Alaska statute, the co-chairs continued to believe a disaster declaration was the best way to move forward to ensure the state had the legal and financial flexibilities to respond to the pandemic.

3:06:51 PM

Representative Edgmon remarked there seemed to be several iterations by the administration. He stated that was fine and acknowledged that things were happening quickly with the distribution of vaccines and so on; however, the governor had introduced HB 76 and a companion bill and had then communicated that a disaster declaration was not needed. Subsequently, there had been an abbreviated bill under consideration. He highlighted that the House was now considering the original bill. He wanted to know whether the bill was supported or not supported by the governor, who could ultimately veto the legislation if it was passed. He believed the question was germane and intended to ask the administration later in the meeting.

Vice-Chair Ortiz believed Representative Zulkosky had stated the CS was a pared down version of the original disaster declaration. He asked for a summary of the impact of the CS compared to the original declaration.

3:08:43 PM

Representative Snyder answered that they could speak to some of the elements in SB 241 that were not included in the CS before the committee. The current bill no longer included specific language that would have allowed the commissioner [of DHSS] to declare health orders [on behalf of the chief medical officer] if the chief medical officer was unavailable. The bill no longer included the requirement for some more detailed monthly reports to be submitted to the Senate president and House speaker, including detailed budgets and activities. She explained that previously peace officers, EMTs, medical technicians,

paramedics, firefighters, and other healthcare providers would have been presumed to have contracted COVID-19 at work if they were exposed and tested positive. The former bill had included some PFD ineligibility language, some protections regarding rent, foreclosure, and utility moratoriums. The former bill had also included rules against price gouging and language related to financial assistance to prevent homelessness as a result of COVID-19.

3:10:07 PM

Vice-Chair Ortiz asked about the net effect of the fact that the bill was a pared down version.

Representative Zulkosky responded that invited testimony would zero in on the issues. She specifically highlighted flexibilities related to testing at airports and detailed that Alaska had identified 3,000 cases of COVID-19 through airports. She referenced invited testimony to be heard from Petersburg on the impact of the virus in the community specifically since the lapse of the disaster declaration. She reported that the community had seen some of the highest numbers of the virus during the period of time without a disaster declaration in comparison with the past year. She noted that a Dr. Hennessy would speak to some of the issues.

Vice-Chair Ortiz relayed that he had heard that morning from a constituent who could no longer receive telemedicine from an endocrinologist in Seattle because the disaster declaration had ended. He asked if passing the current CS would eliminate the problem.

Representative Zulkosky answered, "To our understanding, yes."

Representative Carpenter identified three issues the committee needed to hear from the administration or another authority. The first was the federal money at stake. He had heard rumors it was the case but talking with the administration he believed it was not the case. He wanted to definitively understand the specific issue from the administration's point of view. Second, the committee needed to learn whether the governor wanted or needed an emergency declaration in order to resolve the issue. Third, he wondered whether there were other bills in the pipeline that addressed the issues raised in the CS, which were

acceptable and solved the problem without having to declare an emergency.

3:12:55 PM

Representative Wool asked for verification that the CS restored mandatory airport testing for people coming into Alaska.

Representative Snyder answered that the bill provided the flexibility. She elaborated that under the topic of alternate care sites, it was how testing was facilitated at airports. Currently, the flexibility was not available without a disaster declaration. She explained that they [the House Health and Social Services co-chairs] had heard from healthcare providers and health organizations that without the protection, some of the services were continuing, but it was a gray area.

Representative Zulkosky added that in addition to the alternate care sites, drive-thru testing sites had been closed throughout the state. She detailed that the action had closed the opportunity to do surveillance and asymptomatic testing. She explained that wider testing provided a better snapshot of where the virus was in Alaska and could help public health officials predict how the virus was moving. Additionally, it gave increased opportunity for increased genomic sequencing to know variants and the higher virulent versions of the virus moving throughout the state. She stated it was fundamental in being able to identify cases early before they caused widespread outbreaks. She noted that invited testimony would speak to the topic.

Representative Wool restated his question.

Representative Zulkosky replied that the bill provided the authority to the administration to be able to mandate testing at airports.

Representative Wool remarked that there had been a quarantine period for travelers coming into Alaska. He thought it had been a good program. He noted it was not currently the case. He asked if there would be any quarantining for travelers coming to Alaska under the bill.

Representative Snyder answered that it would not be required, but the bill would allow for the flexibility should the need be deemed necessary.

3:15:59 PM

Representative Wool asked if the language changed from a disaster declaration to a disaster emergency. He asked if it was an intentional word choice.

Representative Snyder believed some of the terms were used a little loosely and disaster declaration was used as a sort of shorthand. She stated that the bill retained the phrase public health disaster emergency from prior legislation.

Representative Wool asked for verification that using the term emergency instead of declaration had the same legal implication.

Representative Zulkosky answered it was their understanding.

Representative Rasmussen circled back to comments made by Representative Carpenter. She stated that the telehealth issue highlighted by Vice-Chair Ortiz was a major issue. She asked if the House Health and Social Services Committee co-chairs were pursuing long-term permanent statutory changes that would enable Alaskans to utilize telehealth. She believed the bill was likely the quickest avenue. She pointed out that even a couple of weeks was a long time for some patients to not be able to see their provider. She supported getting it moving along quickly.

3:18:20 PM

Co-Chair Merrick relayed the committee would next hear from the Department of Health and Social Services on behalf of the administration.

HEIDI HEDBERG, DIRECTOR, DIVISION OF PUBLIC HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), thanked the committee for the opportunity to provide comment on the legislation. She read from prepared remarks:

House Bill 76 was introduced by the governor pursuant of Alaska Statute 26.23.020. This provides that a disaster proclamation may not remain in effect longer than 30 days unless extended by the legislature. On January 15, the governor issued a declaration of a public health disaster and emergency in response to the COVID-19 pandemic. A bill was transmitted to the House on January 21, proposing to extend the public health disaster emergency to September 30, 2021. This is the bill before you today. Absent legislative action and pursuant to state law AS 26.23.020, the public health disaster emergency issued on January 15, expired on February 14th.

In the time leading up to the February 14th expiration, we met extensively with response partners to include our federal agencies, local governments, healthcare providers, tribal health entities, healthcare facilities, and associations to discuss operations and response efforts by the state and to determine impacts if the disaster declaration was not extended. Based off of the feedback, the administration evaluated the current COVID response plan, which includes elements which you are all very familiar with, I am sure. They include widespread testing, supporting non-congregate housing for certain groups of individuals who need to quarantine or isolate, providing alternate care sites, procurement of personal protective equipment and testing supplies, guidelines for Alaskans and nonresidents traveling to and through Alaska, contact tracing, guidelines for critical infrastructure workforce and employers, and vaccine elocution, distribution, and administration.

To continue to keep Alaska one of the safest states, we're requesting limited authorities as we maintain the robust testing, contact tracing, vaccine administration and distribution, and response to community outbreaks. As part of our evaluative process, we looked closely at the authorities that are available to the governor under the Alaska disaster declaration acts. I would like to review the authorities under the Alaska disaster acts with you so that we can walk through what it offers and how we used them and what we need. AS 26.23.020(b) states "the governor may issue orders, proclamations, and regulations necessary to carry out the purpose of the

disaster acts." This was used to allow state agencies to be nimble and flexible in response to the public health emergency and disaster. It also provided protections to help mitigate the spread of COVID-19 by establishing guidelines for travel into Alaska, around Alaska, and for our critical infrastructure workforce. The AS 26.23.020(e) is a proclamation of a disaster emergency activates the disaster response and recovery aspects of state, local, and interjurisdictional disaster emergency plans. This authority was used to allow the unified command structure, which is the Department of Public Safety, the Department of Military and Veterans Affairs, and the Department of Health and Social Services to support local jurisdictions, the healthcare system, and coordinate the statewide response to the pandemic.

[3:23:27 PM](#)

Ms. Hedberg continued to read from prepared remarks:

It also allowed the establishment of the alternate care sites, including the outpatient therapeutic treatment centers and establishing the vaccine point of dispensing clinics, and allowed for the state to coordinate the logistics of supplies and materials. AS 26.23.020(f) the governor may delegate or assign command authority for the National Guard by appropriate orders or regulations. This allowed us to utilize the National Guard for response purposes, such as contact tracing and logistical support at our warehouse.

AS 26.23.020(g) and there are many authorities under this statute, a number of which we used in this response. I'll go over the ones we used and the ones we did not use. Number one was the suspension of provision of regulations or statutes if compliance would prevent or substantially impede or delay action necessary to cope with a disaster emergency. We used this statute for emergency procurement of supplies for hospitals, clinics, and communities, and emergency procurement for contracts for cold chain shippers and testing and supplies. We also hired temporary personnel to support public health response plans and those were contract tracers, public health nursing, microbiologists, and support for our data systems.

This statute also allowed for the increased flexibility in how we care for and provide services to our most vulnerable populations in congregate settings and facilities.

Number three is the transfer of personnel or alter the function of state departments and agencies or units of them for the purpose of performing or facilitating the performance of disaster emergency services. We basically used this statute and repurposed the entire Division of Public Health to respond to COVID-19. Number seven is control ingress to and egress from a disaster area. The movements of personnel within the area and occupancy of premises. This is the authority that we used to implement the pre-travel testing requirements for travel into Alaska and to communities off of the road system and the Marine Highway System.

[3:26:17 PM](#)

Ms. Hedberg continued with her prepared remarks:

Number nine, which makes provisions for the availability of and use of temporary emergency housing. This was used for non-congregate housing for homeless and for travelers that arrived in Alaska with a positive test result. Number ten, which is allocate or redistribute food, water, fuel, clothing, medicine, or supplies. This is the authority that is used for allocation and distribution of our personal protective equipment, testing supplies, vaccine, and therapeutic treatments.

Now for the other authorities that are in section (g) that we did not use. There are four areas that are good to highlight for your awareness. The first is, we did not use the available resources of the state government and of each political subdivision of the state as responsibly necessary. We did not commandeer or utilize any private property, we did not suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, or combustibles. We did not use money from the oil and hazardous substance relief response accounts to respond to a disaster related to an oil or hazardous substance discharge.

In summary, not every single authority available under the Alaska Disaster Act was used or needed for the COVID pandemic response. Authorities that were used, were not used necessarily at the same time. They were some authorities that we used early on in the response, but not later and there were authorities that we used later but not earlier. There were a number of authorities that we've used consistently throughout the response. As we've evaluated this process, we've realized that we do not need broad authorities available under the Alaska Disaster Act to continue the COVID response and transition into recovery. The Department of Health and Social Services believes that there's room to utilize a more limited or targeted approach by using uncodified law to establish specific authorities that we do need that are important for our response and recovery plan and for a limited period of time.

3:29:09 PM

Ms. Hedberg continued with prepared remarks:

Here are the authorities that we have identified, and again, this is based off of feedback and as one of the incident commanders I can tell you that this is truly the authorities that we need to continue to respond effectively to this response and transition into recovery.

The first is to allow the Department of Health and Social Services to continue to coordinate, allocate, distribute, and manage the State of Alaska vaccine and therapeutics for the COVID-19 response. These are still scarce resources.

The second is to allow the Department of Health and Social Services to cooperate with the federal government with respect to the blanket waivers, the 1135 waiver, and appendix K authorities, and the application and distribution of SNAP emergency allotment (also known as EA benefits) as part of the state's response to COVID-19.

Third is to allow the Department of Military and Veterans Affairs to support and assist the Department of Health and Social Services.

Fourth, is to allow the Department of Military and Veterans Affairs to receive delegation of authority from the governor, allowing activation of the Alaska National Guard to assist with segments of the state's response and recovery plan.

Fifth is allowing the Department of Military and Veterans Affairs to coordinate with FEMA to maintain the funding for non-congregate sheltering capabilities for local jurisdictions across the states.

Sixth is to provide the authority for the use of telehealth and telemedicine for healthcare providers currently licensed in good standing in another state.

Finally, to provide immunity from liability for a governmental entity, employee, or person who's engaged in performing duties as part of the state's response to COVID-19.

We understand the sensitivity of using the disaster declaration and a public health emergency to provide such a broad authority. We also understand the need to progress as we are in this response and starting to pivot into recovery for Alaska. We need to have the tools if we need to respond. As you will hear there are some communities that do have outbreaks, but we do have other communities that are moving into recovery, which is why we want to make sure we have the necessary limited tools and that we can use those necessary limited tools if it's going in the wrong direction.

[3:32:01 PM](#)

Ms. Hedberg finished her provided remarks:

It is possible to allow the appropriate authorities to the Department of Health and Social Services and the Department of Military and Veterans Affairs to continue the state's response plan without providing the broad authority of a public health emergency disaster declaration under the Alaska Disaster Declaration Act. We respectfully request the House Finance Committee consider providing identified limited authorities to continue Alaska's response and

recovery plan without the issuance of an extension of a disaster declaration.

Ms. Hedberg thanked the co-chairs. She listed several other staff available to help answer questions.

3:33:06 PM

Representative Wool noted that testing at the airport was currently voluntary. He cited new COVID variants coming from different parts of the country and world. He asked where the administration stood on mandatory testing for travelers coming to Alaska.

Ms. Hedberg replied that she had helped stand up the testing at Alaska's ten airports receiving flights from the Lower 48. She reported that it was a very good strategy. She relayed that the sites had identified close to 3,000 cases through the testing option [at airports]. She clarified there were many more options available. The department continued to say that testing was an important tool. The department recognized that many individuals had recovered from COVID and within a certain time period those individuals did not need to test. Additionally, individuals who were fully vaccinated (meaning two weeks after their last dose) did not need to be tested. She stated it was up to the legislature to decide whether to include the provision [related to airport testing] in the legislation. She mentioned that when the disaster declaration expired on February 14, all of the infrastructure had remained in place. She elaborated that the health orders had changed to advisories, and it was currently optional. She highlighted how giving the option and educating travelers and Alaskans played a role in early detection.

3:35:47 PM

Representative Wool stated his understanding of the answer. He postulated that the testing of incoming travelers was one of the reasons Alaska had decent COVID results. He highlighted that other island or quasi-island communities such as Hawaii, New Zealand, and Alaska that were able to isolate people coming in had done pretty well. He remarked that Alaska was currently only accessible by air and possibly cruise ship in the coming summer. He knew people who had flown in since the testing requirement was lifted and very few people opt to get the test at the airport. He

was concerned about the issue. He speculated that new variants coming in from out of state could be the source of a future uptick. He thought the airport testing was a good program to look into continuing for a period of time.

3:37:50 PM

Representative LeBon believed Ms. Hedberg had talked about protecting state workers from liability from any COVID-related incident or illness. He asked if it overlapped to protect any private sector business that was operating under the label of an essential business to protect the business from claims that may originate from clients, employees, or other individuals who frequent the business.

Ms. Hedberg deferred the question to the Department of Law.

SUSAN POLLARD, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW (via teleconference), asked for clarification on the question. She understood the question to be about Section 12 of the bill and how it would potentially affect civil liability for private employers.

Representative LeBon complied. He stated his impression that Section 12 was primarily aimed at protecting the state, departments, and employees. He asked if the declaration included any private sector employer protections.

Ms. Pollard stated that her understanding of Section 12 was that it had been added in the other body to SB 56 and the bill would have had an effective date of February 14. She stated that if the bill had been effective on that date, there would need to be a retrospectivity indication for people who acted either in compliance with the health order mandates or not because the disaster order had extended. She did not believe the detail related to the private sector had really been contemplated. She could not give a clear and firm answer at present.

3:41:08 PM

Representative LeBon remarked on the apparent absence of any protections for private sector employers who may receive any claims from clients, employees, or others, when trying to provide an essential service.

Vice-Chair Ortiz thanked Ms. Hedberg for her testimony. He appreciated hearing a list of the things DHSS and the administration needed going forward to control COVID. He asked if the administration supported the bill because it met the needs identified by the administration going forward.

Ms. Hedberg answered that the administration believed a public health emergency or disaster declaration was not needed to continue on. The administration believed limited authorities were needed. She confirmed that the bill, as currently written, provided what the administration needed.

Vice-Chair Ortiz asked for clarification. He asked for verification that the bill provided what the administration needed, but the administration did not support it.

Ms. Hedberg answered that all of the authorities the administration needed were included in the bill; however, the bill contained some authorities that were not needed. She elaborated that the state was a year into the response, and it had built up many capabilities and worked collaboratively with communities. The administration was asking for a limited list of authorities that it believed could be created in a separate bill in uncodified law.

[3:43:56 PM](#)

HB 76 was HEARD and HELD in committee for further consideration.

Co-Chair Merrick stated the meeting was over time and would adjourn.

ADJOURNMENT

[3:44:09 PM](#)

The meeting was adjourned at 3:44 p.m.